

### **REMARKS/ARGUMENTS**

This letter is responsive to the Office Action dated May 20, 2005. This response is accompanied by a three month extension of time. Therefore please consider this response as timely filed.

The number of claims in total and the number of independent claims remain unchanged. Accordingly, no claim fees are due with this response.

In the Office Action, the Examiner has rejected claims 1-21 under 35 U.S.C. 103(a) as being obvious in view of the combined teachings of Bay, Jr. and Lupien. The Examiner has acknowledged that Bay, Jr. teaches that the measurement of the number of trades and the volume of shares traded are equivalent at column 1, lines 55-60. The Examiner further stated, however, that he interprets the applicant's claims broadly so that measurement of volume can also encompass a measurement of the number of shares traded.

The applicant would like to confirm whether the Examiner intended to state that the measurement of volume can also encompass a measurement of the number of trades, instead of stating that the measurement of volume can also encompass a measurement of the number of shares traded. If the Examiner intended to state that the measurement of the volume can encompass a measurement of the number of shares traded, then the applicant submits that the Examiner's argument is not clear, since claims 1 and 21 both include the use of the price, volume (which is the same at least in some contexts as the number of shares traded), and the number of transactions, which is different than the number of shares traded.

Assuming that the Examiner intended to state that the measurement of the volume can encompass a measurement of the number of trades, then the applicant submits that claims 1 and 21 as amended, include the features that the volume and number of

transactions are each retrieved independently from each other in a selected trading session, and that the average of each of the volume and number of transactions are obtained independently of each other, and that the standard deviation of the volume and number of transactions are obtained independently of each other. The applicant submits that Bay, Jr. clearly does not teach or suggest to obtain data for these two parameters independently from each other. Furthermore, the applicant submits that Bay Jr. teaches away from these steps, since he states, as the Examiner has already acknowledged, that the volume and number of transactions are equivalent. Thus, any analysis provided by Bay, Jr would clearly not include parameters of volume and number of transactions obtained independently.

The Examiner did not state that Lupien teaches to obtain data for volume and the number of transactions. Thus it is unclear whether the Examiner believes that Lupien teaches this or not. If it is the Examiner's belief that Lupien does teach it, the applicant submits that one skilled in the art would not be motivated to combine Bay, Jr. with a reference that teaches to obtain data for the volume and number of trades independently, since, as acknowledged by the Examiner, Bay, Jr clearly treats them as equivalent. Conversely, if the Examiner believes that Lupien does not teach to obtain data for the volume and number of transactions independently, then the applicant submits that, even in combination, Bay, Jr. and Lupien do not teach this feature of claims 1 and 21.

The applicant therefore submits that claims 1 and 21 are patentable over the teachings of Bay, Jr. and Lupien. Claims 2-7 depend from claim 1. Accordingly, the applicant submits that these claims are patentable over Bay, Jr. and Lupien at least by way of their dependency on claim 1.

With respect to claim 8, the Examiner has indicated that it was rejected using a similar analysis to claim 1. Steps (d), (e), (f) and (g) of claim 8 include identifying a plurality of time periods of different sizes, each of the time periods terminating with the trading session immediately preceding the selected trading session; providing average values

of the parameters for the time periods; and identifying aberrances between data for the selected trading session and the average values based at least in part on the sizes of the differences therebetween. To give an example, the plurality of time periods can include the week preceding the selected trading session, the month preceding the selected trading session and the year preceding the selected trading session. Average values for each of these exemplary time periods are provided in memory at step (e), and the data for the selected trading session are analyzed for aberrancy against these average values in steps (f) and (g). By providing this analysis covering a plurality of different time periods, aberrancies can be discovered that would be missed entirely by simply providing this kind of analysis for a single time period. For example, the average value of a stock may be quite different for the past week, than the average value for the past month. Thus, aberrant trading of the stock could be entirely missed by conducting such an analysis only on one time period, (eg. a relatively shorter period, such as the previous week) that could be caught if the analysis were also simultaneously conducted on a different time period, (eg. a relatively longer time period, such as the previous month).

When discussing the use of a plurality of time periods, the Examiner refers to column 3, lines 24-27, and Figure 1, of Bay, Jr, which states that the importance of comparing market volume during a present time interval to historical average volume during the same time interval can be appreciated from Figure 1. The Examiner further states that Bay, Jr. teaches at column 5, lines 12-27 and lines 41-50 to determine whether the closing price, volume and number of transactions differs from the average values during each of the time periods.

The applicant submits that the time periods disclosed by Bay, Jr. are entirely different than the time periods claimed in claim 8. Bay, Jr. appears to teach the use of average values over a plurality of time periods, wherein each time period is the same size. For example, each hollow rectangle on the graph shown in Figure 1 of Bay, Jr. represents the average value for a given time period (eg. a half-hour period). Thus, each hollow rectangle positioned at 'Y' on the horizontal axis is the average value for that time

period. In other words, 'Y' may be the time period between, for example, 10:00am and 10:30am. The hollow rectangle denotes the historical average volume of trading within that time period. The hollow rectangle at 'Z' denotes the historical average volume of trading within the time period between 10:30am and 11:00am. Thus, the graph includes a plurality of time periods, except the time periods are all the same size, eg. they are all ½-hour periods. In other words, Bay, Jr. is parsing a trading day into selected periods of time all of which are the same size, and then comparing trading activity within each time period for the selected trading day, with historical trading activity for that time period. However, as stated before, the time periods may be selected to be each a half-hour or an hour for example, but any single analysis uses a plurality of time periods that are all the same size.

By contrast, steps (d) and (e) of claim 8 include identifying a plurality of time periods of different sizes, each of which ends with the trading session immediately preceding the selected trading session, and providing average values for the parameters (eg. volume and number of transactions) for those time periods. As an example, the average volume information could be provided for a time period including the past week of trading, the past month of trading and the past year of trading.

Thus, the applicant submits that Bay, Jr. does not teach the use of a plurality of time periods of different sizes as claimed in claim 8.

The Examiner did not cite Lupien as teaching anything to do with selecting a plurality of time periods. The applicant submits that Lupien does not teach selecting a plurality of time periods of different sizes.

Thus, the applicant submits that even in combination, the teachings of Bay, Jr. and Lupien do not teach selecting a plurality of time periods of different sizes, as claimed in claim 8. Accordingly, the applicant submits that claim 8 is patentable over the combined teachings of Bay, Jr. and Lupien.

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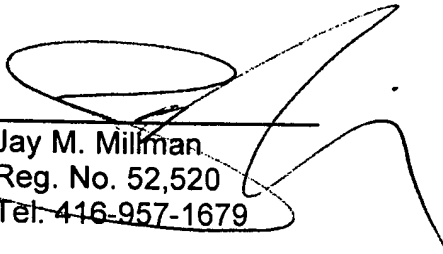
Claims 9-20 depend from claim 8. The applicant submits that these claims are patentable over Bay, Jr. and Lupien at least by way of their dependency on claim 8.

The applicant respectfully submits that the application is in condition for allowance and early review and allowance are respectfully requested.

Respectfully submitted,

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By



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